

REMARKS

Favorable consideration of this Application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-50 are pending in the present Application. Claims 39 and 45 are amended by the present amendment. The claims are amended to correct minor informalities cited in the outstanding Official Action. No new matter has been added.

This amendment is submitted in accordance with 37 C.F.R. § 1.116 which after final rejection permits entering amendments, canceling claims, complying with any requirement of form expressly set forth in a previous Office Action, or presenting rejected claims in better form for consideration on appeal. The present amendment corrects minor matters of form in the claims in compliance with an objection set forth in the outstanding Office Action and places the claims in better form for consideration on appeal. No new matter has been added, and this amendment does not raise new issues requiring further consideration and/or search. It is therefore respectfully requested that the present amendment be entered under 37 C.F.R. § 1.116.

In the outstanding Official Action, Claims 39 and 45 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite; Claims 1, 6, 11, 16-22, 25-27, 30, 33-35, 38, 42 and 47 were rejected under 35 U.S.C. § 103 as unpatentable over Zhang et al. (U.S. Patent No. 6,550,008, hereinafter "Zhang"); Claims 2-5, 7-10, 12-15, 28-29, 36-37, 39-41, 43-46 and 48-50 were rejected under 35 U.S.C. § 103 as unpatentable over Zhang in view of Sims III (U.S. Pub. No. 2002/0016919, hereinafter "Sims"); and Claims 23-24 and 31-31 were rejected under 35 U.S.C. § 103 as unpatentable over Zhang in view of Yagawa et al. (U.S. Patent No. 6,751,598, hereinafter "Yagawa").

The Official Action has rejected Claims 39 and 45 under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Official Action cited the phrase "the key data

of the same generation” in both Claims 39 and 45 as failing to have proper antecedent basis. In response, these claims are amended to remove this phrase and simply recite “the second key data” instead of “the key data of the same generation as the second key data ...”

Accordingly, Applicants respectfully request that the rejection of Claims 39 and 45 under 35 U.S.C. § 112, second paragraph, be withdrawn.

The Official Action has rejected Claims 1, 6, 11, 16-22, 25-27, 30, 33-35, 38, 42 and 47 under 35 U.S.C. § 103 as unpatentable over Zhang. Applicants respectfully assert that Zhang fails to teach or suggest the claim limitations for which it is asserted as a primary reference under 35 U.S.C. § 103.

Claim 1 relates to a contents purveying system which includes a data processor having a reproduction program for reproducing content data, a portable reproducing device for storing contents data, and a contents server for distributing the contents data over a network to the data processor. The processor is provided with a reproduction program, a first master key, and first authentication key and is able to acquire contents from an external storage medium, a CD for example, using the first master key. A portable reproducing device can then be authenticated by the reproduction program using the first master and authentication keys.

When the reproduction program receives contents distributed from a network source, a second master key and a second authentication key are provided to the reproduction program. The second master key is used to store the data received from the contents server, and the second authentication key and second master key are used to effect the transmission/reception of the contents data from the processor to the portable device.

Utilizing such a system allows for the ability to provide alternative keys and authentication mechanisms for content which is received at the processor via a content server and an external storage medium, respectively.

Independent Claims 6, 11, 21, 22, 30 and 38 recite substantially similar subject matter.

Turning to the applied reference, Zhang describes a method for protecting information communicated between a first and a second device which includes generating a request to a third device, the request including information identifying the first and second devices.¹ Zhang specifically describes a method that is implemented in a broadcast system to enable encrypted communications between a POD module (26), a host device (24), using information provided by a head end device (14) which stores information related to the POD module (26) and the host device (24).² Once entity authentication is performed to ensure that both the POD module (26) and the host device (24) are verified units, a shared session key is then derived to protect messages between the POD module (26) and the host device (24).³

The requirements for a *prima facie* case of obviousness are (1) there must be some suggestion or motivation in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine the reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art reference must teach or suggest all the claim limitations. It is respectfully submitted that the outstanding Office Action fails to make a *prima facie* case of obviousness, because Zhang fails to teach or suggest all the claim limitations for which it is asserted

Claim 1 recites, *inter alia*, a contents purveying system including a data processor , wherein

...the contents data stored in an external storage medium connected to the data processor are acquired using said first master key for storage...

the contents data furnished from said contents server are acquired using the so-furnished second master key for storage...

¹ Zhang abstract.

² Id. col. 3, lines 14-44.

³ Id. col. 4, lines 15-19.

Independent Claims 6, 11, 21, 22, 30 and 38 recite substantially similar subject matter, and thus the arguments presented below are also applicable to these claims.

In addressing the above-noted claimed feature, the Official Action cites col. 7, lines 15-30 of Zhang and states “Zhang discloses host system acquired data for storage from the POD which also has a storage medium... that meets the recitation of external storage medium using a session key.”⁴ However, page 6 of the Official Action states that the “POD module (any device connected to a host or integrated circuit device, etc.) that meets the recitation of data processor, and a host device (any device that has a receiver such as a video cassette recorder, personal computer, etc.) that meets the recitation of portable reproducing device...” Therefore, it is unclear which component of Zhang, the Official Action regards as the distinctly claimed “external storage medium” and “portable reproducing device”, as recited in Claim 1.

Claim 1 further recites that the “data processor has a reproduction program for reproducing contents data”. In Zhang, the POD module (26) is used to decrypt data received from the head end system (14) and exchange the content data with the host device (24) so that the data can be reproduced by the host device (24).⁵ However, the POD module (26) does not, at any point, actually reproduce the content data, instead the POD module (26) simply decrypts and encrypts the content data. Therefore, the POD module (26) could not possibly be considered as analogous to the “data processor having a reproduction program for reproducing contents data”, as asserted in the Official Action as the host device is the only device capable of reproducing the data.

Further, Zhang also fails to teach or suggest the existence of a portable reproducing device. As discussed above, the POD module (26) is not capable of reproducing data, and is clearly not portable, both features of the portable reproducing device recited in Claim 1.

⁴ Official Action page 2, sec. 2.1

⁵ Zhang Figs. 4-7.

While the POD module may be considered a storage medium, it does not have the capability to reproduce data or to be portable from the host device, as they are both considered as part of the receiver (20).⁶

Claim 1 further recites that the processor is configured to acquire content data from both an external storage medium and a contents server using first and second master keys. However, as depicted in Figs. 4-7 of Zhang, the host device (24) acquires content data only from the POD device (26) and at no point acquires content from a content server, as recited in Claim 1.

Thus, Zhang fails to teach or suggest a processor having a reproduction program, and configured to acquire content data from an external storage medium and a content server using first and second master keys, as recited in Claim 1. Further, Zhang fails to teach or suggest a portable reproducing device configured to interact with the processor as recited in Claim 1.

Regarding the head end unit (14), the POD module (26) and the host device (24), the Official Action asserts that “it is understood that they could be interchanged”, citing col. 2, lines 49-67 of Zhang.⁷ This cited portion of Zhang only describes that various transmission methods may be used to transmit the content from the head end unit (14) to the receiver (20). However, the identified devices are clearly configured to perform functionally distinct operations in the system regardless of the transmission method selected, and are not interchangeable. The head end unit (14) broadcasts the content data over a transmission medium to the receiver (20) which includes the POD module (26) and the host device (24). The POD module (26) receives and decrypts the content data to be transmitted to the host device (24) for reproduction. Therefore, the assertion in the Official Action that these devices are “interchangeable” is unreasonable and is not supported by Zhang’s disclosure.

⁶ Id. Fig. 1A.

⁷ Official Action at page 6.

Accordingly, for at least the reasons discussed above, Applicants respectfully request that the rejection of Claims 1, 6, 11, 16-22, 25-27, 30, 33-35, 38, 42 and 47 under 35 U.S.C. § 103 as unpatentable over Zhang be withdrawn.

Claims 2-5, 7-10, 12-15, 28-29, 36-37, 39-41, 43-46 and 48-50 were rejected under 35 U.S.C. § 103 as unpatentable over Zhang in view of Sims. The Official Action cited Zhang as disclosing the applicants invention with the exception of storing data keys of plural generations, but failed to provide any motivation or suggestion to combine Zhang and Sims. Applicants respectfully submit that Zhang fails to teach or suggest the claim limitations for which it is asserted as a primary reference under 35 U.S.C. § 103, and further assert that there is no motivation to combine the Zhang and Sim references.

Claim 39 recites, *inter alia*, a portable reproducing apparatus, wherein

“...first key data supplied to said contents reproducing program in said data processing apparatus and used for storing the contents data furnished from an external storage medium...
the second key data furnished being used to effect authentication in acquiring the contents data furnished from said contents server to receive contents data from said data processing apparatus...”

Independent Claims 45 and 50 recite substantially similar subject matter, and thus the arguments presented below are also applicable to these claims.

Again, the Official Action asserts that Zhang teaches the above-cited limitations of Claim 39. However, as discussed above in detail with respect to Claim 1, Zhang fails to teach or suggest retrieving information from an external storage medium, and a contents server at a data processing apparatus using a plurality of different keys, as recited in independent Claims 39, 45 and 50.

As discussed above, Zhang fails to teach or suggest retrieving information from an external storage medium, and a contents server at a data processing apparatus using a plurality of different keys. Likewise Sims fails to remedy this deficiency, and therefore,

none of the cited references, either alone or in combination, can be asserted as disclosing Applicants Claims 2-5, 7-10, 12-15, 28-29, 36-37, 39-41, 43-46 and 48-50, which include the above distinguished limitation by virtue of independent recitation or dependency. Therefore the Official Action does not provide a *prima facie* case of obviousness with regard to any of these claims.

Further, the Official Action fails to provide any motivation or support whatsoever to combine the teachings of Zhang with that of Sims in order to arrive at Applicant's claims. Zhang is directed to a method for secure authenticated communications between two devices configured to receive a broadcast signal. Zhang fails to provide any suggestion or motivation to modify the reference so as to combine its teachings with the teachings of Sims. Sims is a system directed to providing content stored on a bulk storage medium, whereas Zhang describes an broadcast signal distribution system in which two devices in the receiver are capable of exchanging and storing information. It would not have been obvious to one of ordinary skill in the art to combine the teachings of Zhang with the teachings of Sims as the two clearly constitute non-analogous art.

Accordingly, for at least the reasons discussed above, Applicant respectfully requests that the rejection of Claims 2-5, 7-10, 12-15, 28-29, 36-37, 39-41, 43-46 and 48-50 under 35 U.S.C. § 103 as unpatentable over Zhang in view of Sims be withdrawn.

The Official Action has rejected Claims 23, 24, 31 and 32 under 35 U.S.C. § 103 as being unpatentable over Zhang in view of Yagawa et al. (U.S. Patent No. 6,751,598, hereinafter Yagawa).

As discussed above, Zhang fails to teach or suggest retrieving information from an external storage medium, and a contents server at a data processing apparatus using a plurality of different keys. Likewise Yagawa fails to remedy this deficiency, and therefore, none of the cited references, either alone or in combination, can be asserted as disclosing

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Applicants Claims 23, 24, 31 and 32, which include the above distinguished limitation by virtue of dependency. Therefore the Official Action does not provide a *prima facie* case of obviousness with regard to any of these claims.

Accordingly, Applicant respectfully requests that the rejection of Claims 23, 24, 31 and 32 under 35 U.S.C. § 103 as unpatentable over Zhang in view of Yagawa be withdrawn.

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 1-52, is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,

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